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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,610	02/13/2002	Robert Osann JR.		7407

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11/30/2005

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EXAMINER

GANTT, ALAN T

ART UNIT

PAPER NUMBER

2684

DATE MAILED: 11/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/074,610	Applicant(s) OSANN, ROBERT	
	Examiner Alan T. Gantt	Art Unit 2684	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7,12,17-25 and 51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17-25 is/are allowed.
- 6) ☒ Claim(s) 1-7,12,51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 8/22/05 have been fully considered. Applicant has incorporated material previously indicated as allowable into his dependent claims. However, in re-searching the class/subclasses, new prior art has surfaced that meets applicant's newly added claim limitations for claims 51 and also, meets limitations of dependent claim 12, which was previously indicated as allowable. Thus, the current Office Action is a Non-Final action. Further, the rejection of claim 1 is revised since, as applicant pointed out, the messages of the Gusler reference were pre-recorded and not reconstructed at the keypad.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7, 12, and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gusler, in view of Byers.

Regarding claim 1, Gusler discloses an apparatus and method for delayed answering of mobile telephones. Thus, Gusler discloses a method for answering an incoming call made to a mobile phone, comprising:

optionally manually activating, by the receiving party, a special courtesy mode feature on the phone; (paragraphs 0022 and 0023 - the called party presses a button)

playing a courtesy message to the calling party, indicating in effect that the receiving party will take their call shortly and/or that they should wait while the receiving party relocates in order to be able to better receive their call; (paragraph 0023)

having the receiving party complete their current activity and/or relocating the receiving party to a location where they are better able to receive the call and have a phone conversation with less disturbance to others around them; (paragraph 0021)

activating the phone, by the receiving party, to initiate the conversation.

(paragraph 0022 - activated upon pressing a button)

Gusler does not allow for synthesizing a message according to a series of button presses made at receiving party's mobile phone.

Byers discloses a courtesy alerting feature for mobile electronic devices where if a user wants to answer a call but cannot do so immediately, the user can activate the courtesy alerting feature that includes pressing a key or sequence of keys. Byers meets the limitation:

wherein the courtesy message is synthesized according to a series of button pressing made by the receiving party on the mobile phone. (paragraphs 0020, 0021, 0023-0024, and 0026 – pressing the courtesy alert button followed by a keypad entry from 1-9 will yield a courtesy message that includes a time to pickup by the receiving party. The keypad button press will insert a time period verbally synthesized into the message)

Gusler and Byers are combinable because they share a common endeavor, namely mobile telephones that include an answer feature. At the time of the applicant's invention it would have

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been obvious to modify Gusler to include meets to dynamically customize a courtesy message as done by Byers to make the message appropriate to the individual instant call.

Regarding claim 2, Gusler meets the limitation - The method of claim 1 further including the step of: observing the Caller ID display, by the receiving party, to determine whether or not to accept the call. (paragraphs 0024 and 0025)

Regarding claim 3, Gusler meets the limitation - The method of claim 1 further including the step of: placing the calling party on hold while the receiving party completes their current activity and/or relocates, the calling party remaining on hold until the receiving party activates said mobile phone to initiate the conversation or until said courtesy mode is otherwise terminated. (paragraphs 0021-0023)

Regarding claim 4, Gusler meets the limitation - The method of claim 3 further including the step of: removing the calling party from hold and sending them to voicemail, executed by the receiving party at the receiving party's discretion. (Figure 4 and paragraph 0062)

Regarding claim 5, Gusler meets the limitation - The method of claim 3 further including the step of: removing the calling party from hold and sending them to voicemail, executed automatically after a pre-determined time-out period has elapsed since said courtesy mode was initiated, without the receiving party having activated the phone to initiate a conversation. (Figure 4 and paragraph 0062)

Regarding claim 6, Gusler meets the limitation - The method of claim 1 further including: answering the call in the normal manner from the perspective of the mobile service provider; playing said courtesy message, provided from within said mobile phone, to the calling party; putting the calling party on hold, performed at said mobile phone. (paragraph 0050)

Regarding claim 7, Gusler meets the limitation - The method of claim 1 further including: signaling the mobile service provider from said mobile phone that the receiving party has activated courtesy mode; playing said courtesy message to the calling party, performed by the mobile service provider; placing the calling party on hold, performed by the mobile service provider; signaling the mobile service provider from said mobile phone that the receiving party desires to initiate the conversation; (paragraphs 0052 and 0056)

Regarding claim 12, Byers meets the limitation - The method of claim 1 further including: including in said courtesy message an approximate waiting time the caller will have to wait until the receiving party will have to initiate the conversation, said waiting time determined by said sequence of button presses (paragraphs 0020, 0021, 0023-0024, and 0026 – pressing the courtesy alert button followed by a keypad entry from 1-9 will yield a courtesy message that includes a time to pickup by the receiving party. The keypad button press will insert a time period verbally synthesized into the message).

Regarding claim 51, a method for answering an incoming call made to a mobile phone, comprising:

optionally manually activating, by the feature on the phone;

(paragraphs 0022 and 0023 - the called party presses a button)

playing a courtesy message to the calling party, indicating in effect that the receiving party will take their call shortly and/or that they should wait while the receiving party relocates in order to be able to better receive their call; (paragraph 0023)

having the receiving party complete their current activity and/or relocating the receiving party to a location where they are better able to receive the call and have a phone conversation with less disturbance to others around them; (paragraph 0021)

activating the phone, by the receiving party, to initiate the conversation; (paragraph 0022 – activated upon pressing a button)

Gusler does not allow for synthesizing a message according to a series of button presses made at receiving party's mobile phone that includes an approximate wait time.

Byers discloses a courtesy alerting feature for mobile electronic devices where if a user wants to answer a call but cannot do so immediately, the user can activate the courtesy alerting feature that includes pressing a key or sequence of keys. Byers meets the limitation:

synthesizing said courtesy message according to a sequence of button presses receiving party, a special courtesy mode made by the receiving party on said mobile phone; (paragraphs 0020, 0021, 0023-0024, and 0026 –

pressing the courtesy alert button followed by a keypad entry from 1-9 will yield a courtesy message that includes a time to pickup by the receiving party. The keypad button press will insert a time period verbally synthesized into the message)

including in said courtesy message an approximate waiting time the caller will have to wait until the receiving party will initiate the conversation, said waiting time determined by said sequence of button presses (paragraphs 0020, 0021, 0023-0024, and 0026 – pressing the courtesy alert button followed by a keypad entry from 1-9 will yield a courtesy message that includes a time to pickup by the receiving party. The keypad button press will insert a time period verbally synthesized into the message).

Gusler and Byers are combinable because they share a common endeavor, namely mobile telephones that include an answer feature. At the time of the applicant's invention it would have been obvious to modify Gusler to include means to dynamically customize a courtesy message as done by Byers to make the message appropriate to the individual instant call.

Allowable Subject Matter

Claims 17-25 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 21, the pressing of one or two function buttons on a mobile telephone that initiates an action that is influenced by a previously entered sequence of numeric button presses that starts either a courtesy mode message or voicemail was neither found, suggested, nor made evident by the prior art.

Regarding claim 17, the entering of a sequence of numerical button presses of a mobile telephone prior to selection of a call alert feature that includes a period of waiting time indicated in a courtesy mode message was neither found, suggested, nor made evident by the prior art.

Regarding claim 19, the entering of a sequence of numerical button presses of a mobile telephone prior to selection of a call alert feature that includes a period of waiting time indicated in a courtesy mode message or voicemail where said function key initiates a voicemail greeting feature on said mobile phone where a message is played to the calling party indicating in effect that the receiving party will call them back after a specific period of time, followed by sending them to voicemail, said period of time defined by said previously entered sequence of numerical button presses was neither found, suggested, nor made evident by the prior art.

Conclusion

Any inquiry concerning this communication from the examiner should be addressed to Alan Gantt at telephone number (571) 272-7878. The examiner can normally be reached between 9:30 AM and 6 PM within the Eastern Time Zone. The group FAX number is (571) 273-8300.

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Any inquiry of a general nature or relating to this application should be directed to
Supervisory Patent Examiner Nay Maung at telephone number (571) 272-7882.

Alan T. Gantt

Alan T. Gantt

November 7, 2005

Nay Maung
NAY MAUNG

SUPERVISORY PATENT EXAMINER